



## DEPARTMENT OF STATE

[Public Notice: 11877]

### **Request for Stakeholder Input on Options for Combating International Deforestation Associated with Commodities**

**ACTION:** Notice of Request for Information.

**SUMMARY:** Pursuant to an Executive Order on Strengthening the Nation's Forests, Communities, and Local Economies, the Department of State is seeking public feedback on options, including recommendations for proposed legislation, for a whole-of-government approach to combating international deforestation that includes: an analysis of the feasibility of limiting or removing specific commodities grown on lands deforested either illegally, or legally or illegally after December 31, 2020, from agricultural supply chains; and an analysis of the potential for public-private partnerships with major agricultural commodity buyers, traders, financial institutions, and other actors to voluntarily reduce or eliminate the purchase of such commodities and incentivize sourcing of sustainably produced agricultural commodities.

**DATES:** Comments must be received on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Early submissions are appreciated.

**ADDRESSES:** Send comments as a PDF or Word attachment in an email to [DeforestationRFI@state.gov](mailto:DeforestationRFI@state.gov)

**FOR FURTHER INFORMATION CONTACT:** Melissa Gallant, Sustainable Landscapes Analyst, U.S. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, Office of Global Change, (202) 256-1301; Christine Dragisic, Foreign Affairs Officer, U.S. Department of State, Bureau of Oceans

and International Environmental and Scientific Affairs, Office of Global Change;

ClimateNature@state.gov

**SUPPLEMENTARY INFORMATION:**

Under this Executive Order, the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Homeland Security (through the Commissioner of U.S. Customs and Border Protection), the Administrator of the Small Business Administration, the Administrator of the United States Agency for International Development, the United States Trade Representative, and the Special Presidential Envoy for Climate, will submit a report to the President within one year on the above topic.

The Executive Order also references the Biden Administration's commitment to deliver, by 2030, on collective global goals to end natural forest loss and to restore at least an additional 200 million hectares of forests and other ecosystems, while showcasing new economic models that reflect the services provided by critical ecosystems around the world, as described in the *Plan to Conserve Global Forests: Critical Carbon Sinks*. The plan recognizes that conserving and restoring global forest and peatland ecosystems, particularly in the Amazon, Congo Basin, and Southeast Asia, can provide significant global greenhouse gas emissions mitigation, both by preventing the emissions caused by deforestation and by increasing the amount of carbon dioxide captured from the atmosphere and stored in soils and forest biomass. The Administration is also committed to combating illegal logging and stopping trade in illegally sourced wood products including through the Lacey Act, and to addressing the related importation of commodities sourced from recently deforested land.

In addition to any general input, the Department is interested in responses to the questions posed below. The Department may use this information to inform potential future actions including, but not limited to, preparation of a report to the President

addressing the above topics. The Department welcomes any relevant comments, including on related topics that may not be specifically mentioned but that a commenter believes should be considered.

**Respondent information.** Please note the following information is not required but will assist us in contextualizing responses. If possible, in your submission, please include: institution name; and type of institution (suggested responses might include U.S. government agency; U.S. Congress; U.S. subnational government; foreign government; U.S.-based soft commodity producer; foreign-based soft commodity producer; U.S.-based soft commodity trader; foreign-based soft commodity trader; U.S.-based soft commodity user; foreign-based soft commodity user; U.S.-based retailer; foreign-based retailer; U.S.-based financier; foreign-based financier; U.S.-based civil society organization; foreign-based civil society organization; U.S.-based academia; foreign-based academia; international organization; or Other); for foreign-based entities, please specify country/ies in which the institution is headquartered; if your organization engages with commodities, please specify which commodity (cattle, oil palm, soy, cocoa, coffee, wood fiber, rubber, and/or other)

**Specific Topics and Questions:** The Department is interested in any information respondents believe would be useful in preparing a report to the President corresponding to E.O. paragraph 3.b evaluating options, including recommendations for proposed legislation, for a whole-of-government approach to combating international deforestation. In addition to general comments, the Department is interested in respondents' answers to any or all of the questions listed below. Please fully explain your answers and include additional reasoning, context, and other information as appropriate.

**Approach to identifying deforested lands:**

1. Should the United States government apply tools within its authorities to limit or remove specific commodities grown on illegally deforested lands from agricultural supply chains? What are the potential benefits or negative effects of this approach?
2. Should the United States government apply tools within its authorities to limit or remove specific commodities grown on lands deforested, legally or illegally, after a specific cut-off date (for example December 31, 2020) from agricultural supply chains? What are the potential benefits or negative effects of this approach?
3. For any approach to addressing commodities grown on deforested land that focuses on lands deforested after a specific date, is December 31, 2020 the most appropriate date? Is another date more appropriate, and if yes, what might that be and why?
4. For U.S.-based respondents: If trade in commodities grown on lands deforested either illegally or, (legally or illegally) after December 31, 2020 (and products containing those commodities) were prohibited in the United States, what, if any, effect would that have on your operations (e.g. demand for your product, costs, revenue, supply chains, etc.)?

**Approach to addressing deforestation associated with commodities**

5. Which of the following approaches should the United States federal government consider following in advancing efforts to limit or remove specific commodities grown on deforested lands from agricultural supply chains: a) tax incentives; b) expanded application of existing regulations and authorities; c) public procurement policy; d) enhanced transparency on deforestation and/or commodity flows; e) enhanced commodity traceability; f) development of voluntary or mandatory third party or federal standards or certification programs; g) partnerships with countries or subnational governments to address commodity-driven deforestation; h) public-private partnerships. For each approach selected, please provide details on the most effective potential measures that might be applied, and whether new legislation or

amendment of existing legislation would contribute to effective measures. For approaches not selected, please specify why such an approach is not recommended. If you believe that a modification of an approach or a different approach that is not listed here would be more effective, please describe. (Note throughout “commodities” may also be read to apply to derivative products.)

6. Which of the following substantive approaches by the U.S. federal government might be most effective in limiting or removing specific commodities grown on deforested lands from agricultural supply chains? For each approach selected, please provide details on the most effective potential measures that might be applied. For approaches not selected, please specify why such an approach is not recommended.

- Restricting the importation of commodities grown on lands deforested either illegally or after a specific cut-off date;
- Requiring covered entities to conduct due care for transparency and traceability to eliminate or minimize the risk that commodities in agricultural supply chains, or the products produced from such commodities, were grown on lands deforested either illegally or after a specific cut-off date; (Please specify how such due diligence might be conducted; whether audits of due care for transparency and traceability by independent, recognized third parties should be required; and if and how entities would provide notice or documentation);
- Requiring covered entities to have full traceability of covered commodities.  
(Please specify the level of proposed traceability [e.g., to the farm/ forest/ ranch, municipality, processing plant]; information that should be collected and retained at each point in the supply chain; potential data sources, collection methods and retention rules; potential costs and impacts on agricultural supply chains), and how this might be verified by importers to assure compliance;

- Incentivizing the use of commodities produced in jurisdictions (e.g., country, state or province) with low deforestation rates, or disincentivizing the use of commodities produced in jurisdictions with high deforestation rates; and
  - Enhancing transparency around commodity flows and deforestation to inform investors and importers. If recommending this option, please elaborate how this could be done, benefits and limitations;
  - Phasing in substantial penalties for non-compliance with any approach the federal government would take (including but not limited to those listed above) to limit or remove specific commodities grown on deforested lands from agricultural supply chains.
7. What substantive approaches by the private sector might be most effective in limiting or removing specific commodities grown on deforested lands from agricultural supply chains? For each approach, please provide details on the most effective potential measures that might be applied. Please specify if there are approaches not recommend and why.
8. For corporate respondents: Several other governments have adopted, or proposed, due care for traceability and transparency requirements to address the risk of commodity-driven deforestation. Can you provide any evidence on the cost of documenting traceability and transparency, whether related to these requirements or voluntary systems? If yes, can these costs be broken down by specific commodities? Can you provide any evidence on the benefits to businesses of documenting due care for, traceability and transparency, including for specific commodities? If yes, can these benefits be quantified? Please provide details.

## **Definitions**

9. In defining deforestation, should a single definition of forests be used? Or should ecosystem- or country-specific definitions be used, for example the definition of a forest submitted by each country to the FAO?
10. If a single definition of forests is used, which existing definition is most applicable?  
E.g. FAO Global Forest Resource Assessment 2020: “Land spanning more than 0.5 hectares with trees higher than 5 meters and a canopy cover of more than 10 percent, or trees able to reach these thresholds in situ” (plus explanatory notes)? Other?
11. Which existing definition of deforestation is most applicable or appropriate? E.g. FAO Global Forest Resource Assessment 2020: “The conversion of forest to other land use independently whether human-induced or not.” (plus explanatory notes)  
Others? How should illegal deforestation be defined?
12. For any proposed definition of deforestation (other than illegal deforestation), are there any exceptions that should be made for certain types of deforestation?

### **Data and information**

13. In assessing the feasibility of addressing commodities produced on land deforested illegally, how might legality be assessed? Which global or regional data sets might be used to identify illegally deforested lands? What process precedents exist for assessing national legal frameworks to identify the legality, or illegality, of an action? What are the benefits or limitations of such precedents and approaches? Which actors might identify illegal deforestation, and through which channels? Is this approach feasible given the diversity of legal regimes?
14. In assessing the feasibility of addressing commodities produced on land deforested after December 31, 2020, or another specific date, which global or regional data sets might be used to identify lands deforested before, or after, this date?
15. Would there be value in the United States making publicly available a map or other dataset of lands worldwide assessed to be deforested either illegally, or before a

- specific date? If yes, what value would this provide to relevant stakeholders? How should such a map, or dataset, be made publicly available?
16. Would there be value in the United States requiring some declaration upon import of the location from which the commodity derived?

### **Covered commodities**

17. Assessments have identified that around three-fifths of deforestation worldwide is associated with seven commodities: cattle, oil palm, soy, cocoa, coffee, wood fiber, and rubber,<sup>1</sup> though dynamics vary by country. Should the United States 1) address deforestation associated with all soft commodities (those that are grown, rather than extracted or mined); 2) address deforestation associated with all soft commodities, but start with the seven listed above, or 3) address deforestation associated with all soft commodities, but start with a smaller subset of commodities, or different commodities, or 4) only address deforestation associated with a subset of soft commodities?
18. For corporate respondents: Which harmonized tariff codes, if any, associated with cattle, oil palm, soy, cocoa, coffee, wood fiber, and rubber are associated with the commodities you import, or processed goods you manufacture or trade?

### **Covered entities**

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<sup>1</sup> World Resources Institute. (2020). *Estimating the Role of Seven Commodities in Agriculture-linked Deforestation: Oil Palm, Soy, Cattle, Wood Fiber, Cocoa, Coffee, and Rubber*. Retrieved from: <https://files.wri.org/d8/s3fs-public/estimating-role-seven-commodities-agriculture-linked-deforestation.pdf>  
See e.g. Goldman, E., M.J. Weisse, N. Harris, and M. Schneider. 2020. "Estimating the Role of Seven Commodities in Agriculture-Linked Deforestation: Oil Palm, Soy, Cattle, Wood Fiber, Cocoa, Coffee, and Rubber." Technical Note. Washington, DC: World Resources Institute. Available online at: [wri.org/publication/estimating-the-role-of-seven-commodities-in-agriculture-linked-deforestation](https://wri.org/publication/estimating-the-role-of-seven-commodities-in-agriculture-linked-deforestation).



19. What entities should be covered by an approach the United States takes to address global deforestation associated with commodities? Please identify which of the following categories should be covered, and explain why each category should or should not be included: a) direct importers; b) commodity traders; c) consumer goods companies; d) retailers; e) financiers of the above companies; f) other (please identify).

### **Prioritization of resources**

20. How could the United States most effectively address global deforestation associated with commodities, using a finite set of resources? Please explain.

- A) Focusing on the countries with the highest rates of deforestation;
- B) Focusing on the countries with the highest volume, or value, of soft commodities imported to the United States;
- C) Focusing on the tariff codes or industries associated with commodities of greatest impact?
- D) Focusing on the countries with the highest risk for illegal land clearing and deforestation based on a set of factors (i.e. level of criminality/corruption; weak law enforcement; unclear land tenure/land conflict)?
- E) Another approach to prioritizing resources?

21. Should countries be excluded or deemphasized if they: a) maintain forest cover above a specific threshold, b) export soft commodities to the United States below a specific threshold, and/or c) for another reason (current forest cover, etc.)? Should tariff codes be excluded or deemphasized if they account for under a certain percent of covered commodity imports? Should there be a de minimus exception to any measure implemented? If yes to any of the above, please specify the reason and the appropriate minimum threshold.

22. Should covered entities be excluded or deemphasized if they: a) import soft commodities to the United States below a specific threshold or volume, b) maintain integrity of intact natural forest above a certain threshold, c) import the covered commodities to the United States below a specific threshold or volume, d) have U.S. revenue below a specific threshold, or e) have global revenue below a specific threshold? Should entities with revenue below a specific threshold have simplified requirements, for example for due care for traceability and transparency? If yes, please specify the reason and the appropriate minimum threshold.

### **Monitoring and Traceability**

23. Some approaches to address global deforestation associated with commodities may entail traceability of commodities. In your experience, for which of the following commodities is traceability from the farm/forest/ranch level to the final product technically possible: cattle, oil palm, soy, cocoa, coffee, wood fiber, and/or rubber? At what level of precision and unit? Where it is possible, which systems are used, and what is the cost per volume (e.g., ton)? Where traceability from the farm to the finished product is not possible, at what level is traceability feasible (e.g., municipality, processing plant, final distributor, country), using which systems, and at what cost per volume? Why is it not traceable to the farm/forest/ranch? What standards/ features of traceability systems are needed to help ensure a high degree of compliance with the system? In your experience, is full traceability from the farm to the finished product the only way to ensure the commodities grown on deforested land or illegally deforested land is removed from supply chains?

24. For corporate respondents: To what level can you currently trace the commodities you use (e.g., from the farm/ forest/ ranch, municipality, processing plant, country to where)? In five years time, to what level could you trace the commodities you use? To which end points? What is considered best practice in your industry regarding

traceability? What would be the cost implications of full traceability from the farm/ forest/ ranch level to the finished product? Please feel free to disaggregate by commodity.

### **Certification Schemes**

25. A number of schemes or programs have been developed for certifying the sustainability of agricultural commodities. These include both voluntary standards (e.g., those developed by commodity-specific roundtables, other industry groups, or non-governmental organizations) as well as mandatory government compliance standards.
26. Which, if any, voluntary or compliance (e.g. government) commodity certification systems currently includes within its certification standard a) illegal deforestation, or 2) deforestation after a specific cut-off date?
27. Have voluntary or compliance certification schemes been effective in reducing commodity-driven deforestation? Which ones?
28. What are the factors that contribute to the effectiveness of these certification schemes in reducing deforestation, or create obstacles that impede their effectiveness?
29. How can certification schemes be improved to ensure they are effective in reducing commodity-driven deforestation?

### **Public Private Partnerships**

30. A number of public-private partnerships to reduce deforestation associated with commodities have been developed to promote collaboration across sectors and leverage the relative strengths of different actors.
31. Which partnerships been effective in reducing commodity-driven deforestation? What are the factors that contribute to the effectiveness of these public private partnerships, or present obstacles that impede their effectiveness?

### **Resources**

32. Do you recommend any further collection of evidence to verify deforestation associated with commodities, globally or in specific countries? Please specify if you believe this is an information gap or, if this evidence exists, please provide detail on the source(s) of this evidence (i.e., citations).
33. Do you recommend any further resources to assess the legal frameworks related to deforestation and land use in specific countries, or data sets of legally or illegally deforested lands? Please specify if you believe this is an information gap or, if this evidence exists, please provide detail on the source(s) of this evidence (i.e. citations).
34. Do you recommend any further resources related to the impacts (economic, trade or markets, and otherwise) of deforestation associated with commodities, globally or in specific contexts? Please specify if you believe this is an information gap or, if this evidence exists, please provide detail on the source(s) of this evidence (i.e. citations).

We welcome additional information related to addressing the link between soft commodities and deforestation.

**Christine Dragisic,**

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